

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

JOSEPH VAN LOON; TYLER ALMEIDA;
ALEXANDER FISHER; PRESTON VAN LOON;
KEVIN VITALE; and NATE WELCH,

Plaintiffs,

- against -

DEPARTMENT OF THE TREASURY; OFFICE OF
FOREIGN ASSETS CONTROL; JANET YELLEN,
in her official capacity as Secretary of the Treasury; and
ANDREA M. GACKI, in her official capacity as Director
of the Office of Foreign Assets Control,

Defendants.

No. 1:23-cv-312-RP

**PLAINTIFFS' MOTION FOR ORAL ARGUMENT
ON CROSS-MOTIONS FOR SUMMARY JUDGMENT**

Plaintiffs Joseph Van Loon, Tyler Almeida, Alexander Fisher, Preston Van Loon, Kevin Vitale, and Nate Welch respectfully request that this Court allow oral argument on the Parties' cross-motions for summary judgment as follows:

1. Plaintiffs challenge Defendants' designation of the purported "entity" Tornado Cash pursuant to the International Emergency Economic Powers Act (IEEPA). Tornado Cash is a decentralized, open-source privacy protocol made up of a subset of so-called "smart contracts" on the Ethereum blockchain. Smart contracts are open-source software programs, which may be coded by anyone to perform a specific task when predetermined conditions are met. The most important feature of the Tornado Cash privacy protocol is its "pool" contracts, which are immutable and allow users to deposit crypto assets from one wallet and later withdraw the same amount into another wallet. Defendants' designation of Tornado Cash, including those immutable smart

contracts, is an unprecedented and sweeping expansion of the Defendants’ authority to take action with respect to “property in which any foreign country or a national thereof has any interest.” 50 U.S.C. § 1702(a)(1)(B).

2. Plaintiffs submit that oral argument would be useful to the disposition of this case. This case presents novel issues regarding the interpretation of IEEPA. In particular, this case presents novel issues regarding whether Defendants have identified a “national”; whether immutable, open-source code is “property”; and whether the purported “national” that Defendants have designated has an “interest in property” in that immutable, open-source code. The case also raises important First Amendment issues that affect all law-abiding Americans with crypto assets.

3. Plaintiffs have conferred with Defendants, who take no position on this motion.

4. Plaintiffs respectfully request that this Court grant this motion and schedule oral argument on the Parties’ cross-motions for summary judgment following the conclusion of briefing.

Dated: June 14, 2023

Respectfully submitted,

PAUL, WEISS, RIFKIND,
WHARTON & GARRISON LLP

/s/ Kannon K. Shanmugam

Kannon K. Shanmugam*

Brian M. Lipshutz*

Matteo Godi*

Jennifer K. Corcoran*

2001 K Street, N.W.

Washington, DC 20006

(202) 223-7300 (telephone)

kshanmugam@paulweiss.com

**Admitted pro hac vice*

PARKER, BUNT & AINSWORTH, P.C.

Charles Lewis Ainsworth

Texas Bar No. 00783521

100 East Ferguson Suite 418

Tyler, TX 75702

(903) 531-3535 (telephone)

charley@pbatyler.com

Counsel for Plaintiffs